

1 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION
2 OF THE STATE OF OREGON
3

4 In the Matter of the) DEFAULT ORDER OF
5 Educator License of) REVOCATION
6 ROBERT PHILIP CARWITHEN)
7

8 On March 27, 2017, the Teacher Standards and Practices Commission
9 (Commission) issued a Notice of Opportunity for Hearing Robert Philip Carwithen
10 (Carwithen) in which the Commission charged him with Gross Neglect of Duty. The
11 Notice was sent via U.S. First Class Mail and U.S. Certified Mail Receipt 7016 0750
12 0000 2419 1041 to the address on file with the Commission. The Notice designated the
13 Commission file as the record for purposes of proving a prima facie case. The Certified
14 Mail receipt was returned signed to the commission on March 31, 2017. The regular mail
15 was not returned to the Commission. The Notice of Opportunity of Hearing, dated
16 March 27, 2017, and signed by Monica Beane, Executive Director, stated:

17 “IF A REQUEST FOR HEARING IS NOT RECEIVED WITHIN THIS 21-DAY
18 PERIOD, YOUR RIGHT TO A HEARING SHALL BE CONSIDERED WAIVED
19 UNLESS YOUR FAILURE TO REQUEST A HEARING WAS BEYOND YOUR
20 REASONABLE CONTROL. IF YOU DO NOT REQUEST A HEARING OR IF
21 YOU FAIL TO APPEAR AT A HEARING, THE COMMISSION WILL ADOPT AN
22 ORDER OF DEFAULT WHICH MAY INCLUDE THE REVOCATION OR
23 SUSPENSION OF YOUR LICENSE OR OTHER DISCIPLINE.”
24

25 On April 4, 2017, Carwithen requested a hearing. On May 25, 2017, Carwithen withdrew
26 his request for a hearing. The Commission, therefore, finds Carwithen to be in default
27 and enters the following findings of fact, conclusions of law, and final order, based on
28 the files and records of the Commission concerning this matter.
29

30 **FINDINGS OF FACT**

- 31 1. Robert Carwithen has been licensed by the Commission since October 16, 1984,
32 except as noted below. Carwithen’s Standard Teaching License, with an
33 endorsement in Standard Music (018), is valid from March 3, 2015, through March
34 13, 2020. During all relevant times, Carwithen was employed by Winston-Dillard
35 School District.
- 36 2. On May 14, 2015, the Commission received information that Carwithen had resigned
37 his employment while under investigation for possible misconduct. On May 22,

1 2015, the Commission received a report from the Winston-Dillard School District
2 indicating that Carwithen may have violated professional standards by engaging in
3 an inappropriate relationship with a student.

4 3. Subsequent investigation determined the following:

5 a. On July 23, 1997, Carwithen surrendered his teaching license to the
6 Commission. The surrender and subsequent revocation of Carwithen's
7 teaching license was a result of Carwithen's conduct where he engaged in a
8 conversation about sexual activities with a female student. The female
9 student reasonably interpreted the conversation as a request for sexual
10 favors. On May 19, 1999, the Commission reinstated Carwithen's license
11 with a four-year period of probation.

12 b. On or about April 24, 2015, school officials received a patron complaint
13 alleging that Carwithen was engaged in a sexual relationship with BH, a
14 minor aged student. In the course of related investigations regarding the
15 allegations, Carwithen refused to be interviewed by school officials or law
16 enforcement. On October 24, 2016, Commission Investigators formally
17 requested Carwithen participate in an interview as required by
18 Commission rules. On October 26, 2016, and again on October 27, 2016,
19 through Carwithen's attorney, Carwithen refused to participate in any
20 requested interview.

21 c. Investigative review of phone records revealed that between March 2015
22 and June 2015, Carwithen and BH exchanged approximately 225 text
23 messages. Multiple involved persons indicated they heard accounts that
24 Carwithen and BH were engaged in a sexual relationship. Student BJ
25 reported that BH had confided in him, confirming Carwithen and BH were
26 involved in a romantic and physical relationship. On or about April 23,
27 2015, while chaperoning a band field trip, Carwithen and student BH
28 learned school officials and law enforcement had been alerted to
29 Carwithen's relationship with BH. Thereafter, witnesses reported that
30 Carwithen and his wife, who was also on the trip, displayed emotional
31 episodes, including crying during band performances. On April 25, 2015,
32 Carwithen contacted his union representative, Bob Sconce. After

1 conversing with Carwithen about the district and/or law enforcement
2 investigation, Sconce contacted law enforcement to make a child abuse
3 report per his duty as a mandatory reporter.

4 **CONCLUSIONS OF LAW**

5 Robert Philip Carwithen's conduct described above constitutes gross neglect of
6 duty in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates
7 OAR 584-020-0010(5) (*Use professional judgment*), OAR 584-020-0025(2)(e) (*Using*
8 *district lawful and reasonable rules and regulations*), OAR 584-020-0040(4)(o) as it
9 incorporates, OAR 584-020-0035(1)(c)(D) (*Honoring appropriate adult boundaries*
10 *with students in conduct and conversations at all times*); and OAR 584-020-
11 0040(4)(p) (*Subject to the exercise of any legal right or privilege, failure or refusal by*
12 *an educator under investigation to respond to requests for information, to furnish*
13 *documents or to participate in interviews with a Commission representative relating*
14 *to a Commission investigation*).

15
16 The Commission's authority to impose discipline in this matter is based upon
17 ORS 342.175.

18 **FINAL ORDER**

19 The Commission hereby revokes Robert Philip Carwithen's educator license.

20 IT IS SO ORDERED THIS 7th day of June, 2017.

21 TEACHER STANDARDS AND PRACTICES COMMISSION

22 By: Monica Beane
23 Dr. Monica Beane, Executive Director
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27 **NOTICE OF APPEAL OR RIGHTS**

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29 YOU ARE ENTITLED TO JUDICIAL REVIEW OF THIS ORDER. JUDICIAL REVIEW MAY
30 BE OBTAINED BY FILING A PETITION FOR REVIEW WITHIN 60 DAYS FROM THE
31 SERVICE OF THIS ORDER. JUDICIAL REVIEW IS PURSUANT TO THE PROVISIONS OF
32 ORS 183.482 TO THE OREGON COURT OF APPEALS.